Tamil Nadu Civil Judge (Mains) 2023

Law Paper II · compulsory paper

Duration : 3 Hours · Max. Marks : 100 · HCCJMIII/23

The questions in this 2023 specimen ask for criminal charges and judgments.

General Instructions to Candidates

i) The facts and particulars provided in the Question Paper i.e. the court's name, place, case numbers, documents details, names of parties and witnesses are fictional. Yet candidates have to conclusively assume them to be true for the purpose of answering the questions.

ii) Candidates may write the answers either in English or in Tamil but not in both.

iii) The Question Paper is provided in Tamil and English versions. In all matters and in cases of doubt, English version is final.

iv) The candidates have to assume themselves as Presiding Officers and to consider the particulars furnished in questions and frame necessary issues and write judgements on given facts.

v) Candidates need not write the cause title of case, case number, name of the judge, case number, names of the counsel appearing for the parties, list of documents, evidence etc, which would be indicative in nature. No marks will be awarded for writing the cause title etc. Marks will be awarded based on the appreciation of facts and evidence, application of law on the facts, reasoning given by the candidates for arriving at whatever conclusion they have reached.

vi) There are 4 questions in this section and each question carries 25 marks.

vii) The candidates need not provide cause title with citation while answering questions. Providing wrong or incomplete cause title or quoting a wrong citation will be detrimental to the candidates.

1. [25 marks]

Private complaint under section 138 NI Act read with Section 200 CrPC:

The accused borrowed Rs. 7 lakhs from the complainant on 03/12/2006 with promise to repay it within two months. To ensure repayment, a post dated cheque for Rs. 7 lakhs dated 03/02/2007 was given on the date of borrowing. When the cheque was presented for collection before the Central Co-op Bank Kaliakkavallai Branch, the cheque returned as 'payment stopped'. On 12/02/2007 the complainant issued notice to the accused as required under the statute. The accused received the notice but did not reply.

The complaint filed in time. It was taken on file by the judicial Magistrate, Kuzhithurai. The complainant examined as PW-1. 4 documents, the returned cheque, intimation memo, copy of the notice and the postal acknowledgment card marked as Ex P-1 to Ex P-4 respectively. The accused mounted the witness box and deposed that the cheque was not issued to the complainant. The complainant is a stranger and he have no privity of contract with him.

The cheque was not issued for discharge of any legally enforceable debt. The subject cheque was lost and police complaint lodged. Thereafter the bank was instructed to stop payment if the cheque is presented for collection. The complainant have no financial source to lend Rs. 7 lakhs. No income proof filed by the complainant to show the source to lend Rs. 7 lakhs.

The copy of the police complaint and the letter addressed to his bank to stop payment were marked as Ex D-1 and Ex D-2.

Frame charges and write judgment.

2. [25 marks]

On 24.02.2014 at about 9.30 am., a 14 year old girl studying in IX standard was waylaid and threw acid on the face of the victim on her way to school. The assailant has exclaimed that she should not be in this World when she has not assented for marrying him. The assailant then fled from the scene when one Kumar (P.W.2) and one Veerasami (P.W.3) tried to intervene. The assailant was identified as the cousin Tamilarasan of the victim. The motive was to take revenge since the victim refused to marry him. The mother of the assailant shown as co-accused for inducing the assailant to attack the victim. The victim was rushed to the Jayamkondam Government Hospital in an 108 Ambulance from where she was referred to Thanjavur Medical College Hospital. The Sub Inspector of Police, Meensurutti Police Station, on receipt of information from Jayamkondam Government Hospital, visited the hospital and took the statement of the victim girl reduced it into writing as Ex.P.1, registered an FIR (Ex.P9) in Crime No.60/2014 against the accused for the offences under Sections 341, 294(b), 506(i) and 307 IPC and sent the same to Judicial Magistrate Court, Jayamkondam.

The Inspector of Police, Meensurutti police station, took up the investigation on the same day. A-1 was arrested. Based on his confession, the empty acid bottle was recovered under mahazar. On completion of the investigation filed a final report on 26.07.2014 against the accused for the offences punishable under Sections 341, 294(b), 506(i) IPC. The wound certificate given by the doctor reveal that the victim had sustained grievous injuries.

The victim girl examined as PW-1 identified the assailant the accused the acid burn marks on the face of PW-1 shown to the judge and taken note by the judge in the deposition. PW-2 and PW-3 both witnesses to the occurrence had supported the case of the PW-1. The prosecution fail to produce the wound certificate and examine the doctor who treated PW-1.

Frame charges and write judgment.

3. [25 marks]

A-1 to A-3 are brothers. They all involved in illegal sand mining. They had a dispute with one Muthuramalingam / the deceased regarding mining of the sand illegally. In consequence to this dispute, earlier one Ibrahim / P.W.1, who was an employee of the deceased, was abducted by A1 to A3. In this regard a criminal complaint was given by the deceased and pending. Owing to this, A1 to A3 had developed a grudge against the deceased and consequently, had entered into a conspiracy with Narayanan / A7, who had engaged hirelings. A-4 to A-6. In furtherance of the said conspiracy, On 03.10.2003 at 7.00 a.m., the deceased along with P.W.1 came in a Tractor, bearing Registration No.TN-63-4806 owned by Vellaisamy / P.W.17. the accused who had gathered near a coconut grove of one Arivazhagan with sickles, bill-hook machete and country bombs, waiting for the deceased threw the country bomb and attacked Muthuramalingam indiscriminately all over body and caused his death. PW-1 who sustained injuries was taken to the hospital by PW-6. P.W.4, a Villager, had witnessed the occurrence. One Tamil Sangu, (who died prior to the commencement of the trial) had lodged a complaint at around 8.00 a.m., on 03.10.2003. The said complaint was recorded by the Inspector of Police, who registered the FIR for the offence under Sections 147, 148, 341, 324, 307 and

302 IPC, apart from Sections 3 and 5 of Explosive Substances Act, 1908. The FIR and complaint that were sent to the Judicial Magistrate's Court, was received on 03.10.2003 at 3.30 p.m.

The Inspector of Police, who had received the FIR at 9.00 a.m., on 03.10.2003, commenced the investigation by visiting the scene of occurrence on 9.30 a.m. He prepared the observation mahazar (Ex.P1) and rough sketch (Ex.P35), in the presence of P.W.11 and P.W.12. After conducting inquest, the body of the deceased was sent for autopsy with a requisition letter (Ex.P23). The soil, with and without blood stains at the scene of occurrence, was taken along with two pairs of slippers, cotton pieces from the top of the engine of the Tractor, 4 pieces of cloth used to cover the bomb, the broken pieces of speedometer of the Tractor (PMO.1 to PMO.8) under seizure mahazar (Ex.P2). These articles were sent to the Court under Form 91 (Ex.P19).

PW-1 the injured witness identified each of the accused and their overt act in the crime. PW-4 the bystander, one witness to the confession leading to recovery turned hostile.

Frame charges and write judgment.

4. [25 marks]

The accused borrowed cash credit loan from State Bank of India, Mylapore Branch, Chennai. For the loan of Rs 50 lakhs, property worth Rs 1 crore given as collateral security. The title document deposited to create equitable mortgage. Later the accused failed to repay the loan amount with interest. When the bank wanted to proceed against the property mortgaged by deposit of title deed creating equitable mortgage, the bank found the document is not genuine. Hence complaint for criminal breach of trust, cheating and forgery. The respondent police after investigation, filed final report along with the opinion of the scientific expert that the tital document given as collateral security is a false document. Sub Registrar of the concern jurisdiction given statement that the disputed document not genuine.

For what offences you will frame charges? If, pending trial after examination of prosecution witnesses, the accused repays the entire loan amount with interest to the bank and file an application for plea bargain. How will you proceed and what will be your judgment?